

Amendment and Response

Applicant: E. Scott Hagermoser et al.

Serial No.: 10/658,490

Filed: September 8, 2003

Docket No.: 59004US002

Title: VEHICLE TOUCH INPUT DEVICE AND METHODS OF MAKING SAME

REMARKS

The following remarks are made in response to the Office Action mailed March 28, 2008. In that Office Action, claims 1-11, 13-16, and 28-38 were rejected under 35 U.S.C. § 103 as unpatentable over Gillespie, U.S. Patent No. 7,109,978 ("Gillespie") and Pryor, U.S. Patent No. 7,084,859 ("Pryor") in view of Neuman, U.S. Patent No. 5,942,815 ("Neuman"), and dependent claim 12 was rejected under 35 U.S.C. § 103 as unpatentable over Gillespie, Pryor and Neuman and further in view of Nagasaka, U.S. Patent Publication No. U.S. 2004/0195031 ("Nagasaka"). Independent claim 23 and dependent claim 27 were rejected under 35 U.S.C. § 103 as unpatentable over Gillespie in view of Pryor. Claims 24, 25, and 26 were rejected under 35 U.S.C. § 103 as unpatentable over Gillespie and Pryor and further in view of Reighard, U.S. Patent No. 5,423,569 ("Reighard"). Claims 10 and 41 were rejected under 35 U.S.C. § 103 as unpatentable over Gillespie, Pryor and Neuman, and further in view of Pepper, U.S. Patent No. 4,755,634 ("Pepper"). Claims 11 and 39-41 were rejected under 35 U.S.C. § 103 as unpatentable over Gillespie, Pryor and Neuman, and further in view of Redmayne, U.S. Patent No. 5,650,597 ("Redmayne").

With this Response, claims 8 and 41 are cancelled, claim 42 is newly presented, and claims 1, 12, 23, and 28 are amended. Claims 1-7, 9-16, 23-40, and 42 remain pending in the application and are presented for consideration and allowance.

Telephonic Interview with Examiner and Supervisory Patent Examiner

Applicants' Representative participated in a telephone conference with Examiner Moon and Supervisory Patent Examiner Lefkowitz on June 11, 2008 to discuss certain proposed amendments to the claims as faxed to Examiner Moon on June 5, 2008.

The pending rejections to the claims and the references cited in support of those rejections were discussed. Examiner Moon will consider the combination of Gillespie and Pryor in view of Neuman in light of arguments presented by the Applicants' representative. In addition, Examiner Moon suggested that a novel aspect of the pending application may relate to the capacitive touch sensor being configured to safely blow apart upon deployment of the airbag. The Examiner's suggestion is noted with appreciation.

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Claim Rejections under 35 U.S.C. § 103

Claims 1-11, 13-16, and 28-38 were rejected under 35 U.S.C. § 103 as unpatentable over Gillespie and Pryor in view of Neuman.

With this Response, independent claim 1 has been amended to provide an airbag cover having an airbag surface, a capacitive touch sensor disposed between the airbag and the airbag cover, the touch sensor configured so that a touch applied on the airbag surface of the airbag cover forms a circuit through the airbag surface to the touch sensor, where the capacitive touch sensor is configured to reduce interference with airbag deployment. Support for the amended language is located in the application as published (U.S. Pub. No. 20050052426) at least at paragraphs [0028], [0038] and claim 8 as originally filed. It is believed that the cited references do not teach or suggest these features of amended independent claim 1, such that amended independent claim 1 is patentably distinct and in form for allowance.

It is noted that formerly pending depending claim 8 (directed to a capacitive touch sensor that is configured to safely blow apart upon deployment of the airbag) was rejected under Gillespie and Pryor in view of Neuman. The Office Action takes the position at page 6 that Gillespie as modified by Pryor and Neuman inherently teaches the sensor being configured to safely blow apart upon deployment of the airbag. We respectfully disagree. To establish inherency, the extrinsic evidence (i.e., the references) must make clear that the missing descriptive matter (the capacitive touch sensor that is configured to reduce interference with airbag deployment) is necessarily present in the cited reference, and would be so recognized by those of skill in the art. M.P.E.P. § 2163.07(a). Nothing in the cited references speaks to the point or makes clear that the missing descriptive matter of a capacitive touch sensor that blows apart and is configured to reduce interference with airbag deployment is anywhere present in the cited references. Consequently, this feature is not rendered obvious as inherently provided by the cited references, and we believe that at least this feature of amended independent claim 1 recites patentable subject matter.

Claims 2-7, 9-11, 13-16, and 36 further define patentably distinct amended independent claim 1 and are also believed to be allowable.

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With this Response, independent claim 28 has been amended to provide the capacitive touch sensor is integrated with the surface in the vehicle and configured to enable unimpeded safety functionality of the surface in the vehicle. Support for the amended language is located in the application as published (U.S. Pub. No. 20050052426) at least at paragraphs [0028], [0038] and claim 8 as originally filed. Gillespie and Pryor as modified by Neuman fail to teach or suggest at least this feature of amended independent claim 28. Thus, it is believed that claim 28 is not rendered obvious over the cited references and is in condition for allowance.

Claims 29-35 and 37-38 further define amended independent claim 28 and are also believed to be allowable.

It is respectfully requested that the rejections to claims 1-11, 13-16, and 28-38 under 35 U.S.C. § 103 as unpatentable over Gillespie and Pryor in view of Neuman be withdrawn.

Claims 23 and 27 were rejected under 35 U.S.C. § 103 as unpatentable over Gillespie in view of Pryor.

With this Response, independent claim 23 has been amended to provide a method of making a touch enabled airbag, including configuring the capacitive touch sensor to minimally interfere with airbag deployment. Support for the amended language is located in the application as published (U.S. Pub. No. 20050052426) at least at paragraphs [0028], [0038] and claim 8 as originally filed. It is believed that neither Gillespie nor Pryor teach or suggest at least this feature of amended independent claim 23, such that claim 23 cannot be rendered obvious over these cited references.

It is respectfully requested that the rejections to claims 23 and 27 under 35 U.S.C. § 103 as unpatentable over Gillespie in view of Pryor be withdrawn.

Claims 24-26 were rejected under 35 U.S.C. § 103 as unpatentable over Gillespie and Pryor and further in view of Reighard. Reighard was cited as disclosing a piezoelectric element provided in a cover of a vehicle. It is believed that Reighard fails to cure the deficiencies of Gillespie and Pryor in establishing a *prima facie* case of obviousness as detailed above, such that claims 24-26 are not rendered obvious by the combination.

Claims 10 and 41 were rejected under 35 U.S.C. § 103 as unpatentable over Gillespie, Pryor, and Neuman and further in view of Pepper. Pepper discloses a touch point apparatus

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having an array of two or more electrical touch members for use in a touch panel. It is believed that Pepper fails to cure the deficiencies of Gillespie, Pryor, and Neuman in establishing a *prima facie* case of obviousness as detailed above, such that claims 10 and 41 are not rendered obvious over the cited combination.

Claims 11 and 39-41 were rejected under 35 U.S.C. § 103 as unpatentable over Gillespie, Pryor, and Neuman and further in view of Redmayne. Redmayne is cited as providing a scrollbar sensor. However, it is believed that Redmayne fails to cure the deficiencies of Gillespie, Pryor, and Neumann in establishing a *prima facie* case of obviousness as detailed above, such that claims 11 and 39-41 are not rendered obvious over this combination.

Claim 12

Claim 12 has been amended to provide a capacitive coupling calibrated to generate for the button one of a button down signal and a button up signal. Support for this amendment is located in the application as originally filed at least at page 7 beginning at line 16 through page 8, line 4. None of the cited references teach or suggest at least this feature of amended claim 12, such that claim 12 is believed to recite additional patentably distinct subject matter.

Claim 42

Claim 42 is newly presented. Claim 42 depends from claim 1 and requires the capacitive touch sensor is imbedded in the airbag cover. In combination with claim 1, it is believed that newly presented claim 42 provides a feature not taught or suggested by the cited references, such that claim 42 recites allowable subject matter.

CONCLUSION

In view of the above, Applicants respectfully submit that pending claims 1-7, 9-16, 23-40, and 42 are in form for allowance and are not taught or suggested by the cited references. Therefore, reconsideration and withdrawal of the rejections and allowance of claims 1-7, 9-16, 23-40, and 42 is respectfully requested.

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No fees are required under the Rules for newly presented claim 42. However, if other fees are required, the Patent Office is hereby authorized to charge Deposit Account No. 50-0471.

The Examiner is invited to telephone the Applicant's representative at the below-listed number to facilitate prosecution of this application.

Any inquiry regarding this Amendment and Response should be directed to Steven Bern at Telephone No. (651) 733-2255. In addition all correspondence should continue to be directed to the following address:

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Respectfully submitted,

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